

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA

Government.

v.

Case No. 10-20676

STEVEN DEMINK,

Defendant.

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SENTENCE HEARING

BEFORE THE HONORABLE GERALD E.ROSEN, Chief Judge  
United States District Judge  
733 US Courthouse & Federal Building  
231 Lafayette Boulevard West  
Detroit, Michigan 48226  
Wednesday, August 3, 2011

APPEARANCES:

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On behalf of the Government.

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None    Marked

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1 Detroit, Michigan

2 Wednesday, August 3, 2011

3 1:21 p.m.

4 THE CLERK: The court will call criminal action  
5 10-20676, United States of America versus Steven  
6 Demink.

7 THE COURT: Good afternoon. Appearances, please.

8 MR. MULCAHY: Yes, Your Honor. Good afternoon.  
9 Kevin Mulcahy and Hala Jarbou on behalf of the United  
10 States.

11 MR. DINAN: Good afternoon, Your Honor. Timothy  
12 Dinan on behalf of Mr. Demink who's present to my left.

13 THE COURT: Mr. Dinan, if you and Mr. Demink would  
14 approach the podium, please.

15 All right. Mr. Dinan, I would like you to confirm  
16 that you have had an opportunity to review the Presentence  
17 Report with Mr. Demink.

18 MR. DINAN: I have Your Honor. We've also  
19 reviewed the government's brief and we presented the  
20 Court with our own memorandum.

21 THE COURT: I've received that, including all 33  
22 of the attachments. I appreciate it.

23 Do you have any objections that you wish to place on  
24 the record or comments concerning the Presentence Report?

25 MR. DINAN: Judge, I've provided the government

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1 today with one more letter that wasn't included. It's  
2 from my, my client's sister. I would like to present  
3 it to the Court. I think it's relevant and should be  
4 part of the record.

5 THE COURT: I'll accept it.

6 MR. DINAN: May I approach, Your Honor?

7 THE COURT: You may. Anything else concerning the  
8 Presentence Report?

9 MR. DINAN: Not the report, Your Honor, no.

10 THE COURT: Mr. Mulcahy, for the government?

11 MR. MULCAHY: Yes, Your Honor.

12 The government's received and reviewed the  
13 Presentence Report. We have no objections.

14 THE COURT: All right. Allocution on behalf of  
15 your client, Mr. Dinan.

16 MR. DINAN: Thank you, Judge.

17 Your Honor, as I present Mr. Demink today for  
18 sentencing, I just want to highlight what I've put in my  
19 brief what I think are the most important parts of it,  
20 judge.

21 Steve has no criminal record, no history of violence.  
22 He grew up and lived at home with his family most of his  
23 life, judge.

24 He's been gainfully employed, got along with people.  
25 He was a friend, an uncle, nephew, good neighbor. So I'm

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1 trying to figure out, judge, what, what led Steve to do  
2 what he did.

3 THE COURT: I think everybody's trying to figure  
4 that out.

5 MR. DINAN: Well, judge, what I've reviewed from  
6 Dr. Miller's comments and the time I spent with Dr.  
7 Miller and Steve, it seems that there's a number of  
8 elements that come into play; loneliness, low self  
9 esteem, poor self image, rejection throughout his  
10 personal life, judge. I'm not just saying that as an  
11 excuse, but I'm trying to give you just a little  
12 insight of who he is.

13 Judge, he was using The Internet as a substitute for  
14 interpersonal contact. First, it started out everyone  
15 uses it for for information, for amusement, for  
16 entertainment. But then Steve was drawn more into  
17 personal isolation and the sexual intrigue of his own  
18 desires.

19 This isolation, this self delusion, I believe that's  
20 what led to this cynical set of transactions that brought  
21 him here today having plead guilty to what he was charged  
22 with.

23 Judge, his mental illness, his actions, coupled with  
24 the unmet needs and expectations of his victims is what  
25 really led to all of these tragedies.

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1 As much as The Internet empowers people, Your Honor,  
2 it also uncovers our shortcomings our weaknesses.

3 Now the government claims in its brief that Steven  
4 Demink didn't care about his victims because he did not  
5 confess immediately when arrested.

6 Judge, he entered a guilty plea on all the counts  
7 that he's going to be sentenced on today because he knows  
8 he did something wrong.

9 Not only entered guilty pleas, but entered guilty  
10 pleas that could potentially put him in prison for the  
11 rest his life.

12 And in his work with Dr. Miller, he started to  
13 realize and understand his own weaknesses. But more  
14 importantly, the fact that his actions were the, were the  
15 cause for all the pain and all the bad things that have  
16 happened to the victims.

17 Dr. Miller notes Steve knows he needs psychological  
18 treatment and he's amenable to it.

19 And Dr. Miller doesn't predispose himself to  
20 predicting the future, but with the testing we had  
21 available, the length of time he spent with him, he saw  
22 Steve as someone who could be rehabilitated in the future.

23 Your Honor, I think that's a very important part of  
24 the decision the Court's going to have to make today.

25 He enjoys extraordinary support from friends and

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1 family, judge.

2 THE COURT: I gather that from the letters that I  
3 read.

4 MR. DINAN: Your Honor, those letters are heart  
5 felt. It would be very easy to turn a back on Steve,  
6 just leave him. He's not the kind of person people do  
7 that to.

8 I think, I think the letter I just gave you probably  
9 captures it best. Just little incidents from his life,  
10 kindnesses, just the way he conducted himself day-to-day.  
11 It's a total paradox to what he plead guilty to.

12 Now the way the guidelines are calculated, judge, he  
13 goes to prison for life. And if the justice system is  
14 there simply to demonize individuals and act as a  
15 justification for warehousing them, then it's a matter of  
16 calculation, judge. But there's more than that going on  
17 today.

18 And not for one moment I don't blame the victims for  
19 what happened to them nor does Steve.

20 Judge, there's good reasons to depart from the  
21 guidelines. First of all, he did not leave his household  
22 to commit these acts. He did not leave his place of  
23 residence to do this.

24 He didn't want to make personal contact with the  
25 victims. I'm not saying that's any less a crime, but it's

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1 an important difference.

2 Because cases about these guidelines show us that  
3 it's the people who go out and actively seek physical  
4 contact, that's what they're being penalized for, judge.  
5 We don't have that here. We have a very unique situation.  
6 There were no weapons involved.

7 He's accepted responsibility for what he's done.

8 THE COURT: If I could just stop you and ask you  
9 to address this issue.

10 There were no weapons involved, but wasn't the  
11 computer, The Internet, used as a weapon?

12 MR. DINAN: Yes, judge. I understand what the  
13 Court's asking.

14 But I would say its -- it's like any, any other  
15 object that could be abused or used. And I understand  
16 what the Court's asking.

17 THE COURT: In this sense a car isn't a weapon in  
18 its ordinary every day use. But if somebody uses a car  
19 with the intent of causing great bodily injury or  
20 killing someone, then it is a weapon.

21 Isn't that how Mr. Demink used The Internet?

22 MR. DINAN: Judge, I would -- I could see where  
23 that argument's being made. I understand what's the  
24 Court's asking.

25 It is certainly -- I'll answer your question by



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1 conceding it's something that could have been abused and  
2 was in this case.

3 THE COURT: Interesting that as technology  
4 progresses in whatever the arena, it seems that there  
5 are benefits but, also, opportunities for great  
6 disproportions and uses of ill intent. That's  
7 certainly true of the Internet.

8 MR. DINAN: I agree, Your Honor. Judge --

9 THE COURT: I didn't mean interrupt you.

10 MR. DINAN: I'm sorry, Judge.

11 I've known Steve since 1985 and in way I feel like  
12 he's my brother. And I'm here today with Steve and his  
13 family and friends who are all here with him, judge.

14 Because he's my brother, I'm angry at him. I'm angry  
15 for what he did, I can't believe that he had the capacity  
16 to do what he did.

17 We are all confused and disappointed about what  
18 Steve's done because it's so counter-intuitive to the  
19 Steven Demink we know.

20 We know that he's going to be held accountable for  
21 his actions today, judge. And no matter what happens,  
22 he's got a debt to pay.

23 I don't know that he could ever fully redeem himself,  
24 make people whole for the damage he's done no matter what  
25 he does for the rest of his life.

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1 But because he's my brother, he's our friend, because  
2 he's a nephew, a son, an uncle, we're going to stand by  
3 him today.

4 We're not going forget everything good that he's done  
5 in his life today. We're not going to over look that,  
6 judge, and we want the Court to know that's the way we  
7 feel.

8 We believe him when he asks for help and recognizes  
9 he's needs help. Because he's our brother, judge, I  
10 believe that he can be rehabilitated. I believe that  
11 there is the potential to return him back where he can  
12 rejoin society, contribute again.

13 We all stand behind him and know he's got a debt to  
14 pay, judge. And while we don't want him to go away, we  
15 know he will. But the Court should know that we're going  
16 to be here with him when he returns.

17 So the only thing I can ask for today, judge, is a  
18 chance for Steve to redeem himself. The hope that one day  
19 he can return to his family, friends, begin to contribute  
20 to society, try to make right what is so obviously wrong  
21 about his conduct.

22 I'm asking the Court to consider a term of years with  
23 sexual offender rehabilitation treatment rather than a  
24 sentence of life, judge.

25 I thank you for your time.

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1 THE COURT: Thank you, Mr. Dinan. Mr. Mulcahy?

2 MR. MULCAHY: Yes, Your Honor.

3 As a procedural matter to start, I would like the  
4 Court to know that -- and I trust that the Court has  
5 received all of the victim impact letters?

6 THE COURT: I did.

7 MR. MULCAHY: There is, as we noted in our  
8 sentencing memorandum, there is one victim who's here  
9 today.

10 My intent would be to call her when the appropriate  
11 time is in my remarks, if that's okay with the Court or I  
12 can call her now.

13 THE COURT: I think it would be appropriate if you  
14 want to call her up. I'll be happy to hear from her.  
15 I'll ask defendant and defense counsel to be seated.

16 MR. MULCAHY: Would you like that to happen now?

17 THE COURT: If you'd like to speak first, that's  
18 fine or if you'd like to call the victim first; either  
19 way you wish to proceed.

20 MR. MULCAHY: Okay. Thank you, Your Honor. I'll  
21 think I'll call her in the middle of my remarks.

22 There's really only three things. We've filed a  
23 sentencing memorandum, it is lengthy, comprehensive. We  
24 stand by it. I won't repeat it for Your Honor nor will I  
25 read word for word all the victim impact letters. I know

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1 Your Honor has.

2 THE COURT: I have.

3 MR. MULCAHY: However, there are three things.

4 And the first and foremost are about the victims in  
5 this case.

6 Because the victims are minors, these children, these  
7 innocent children, we try as best as we can after-the-fact  
8 to protect them, that's why we give them monikers such as  
9 Minor Victim 1, Minor Victim 2.

10 My concern not from the Court just generally - just  
11 in general is that MV1 through MV12 tends to take the  
12 humanity out of who these children are.

13 THE COURT: You needn't worry about that.

14 MR. MULCAHY: Thank you, Your Honor.

15 So what I -- and I trust that what I would like to do  
16 so I could adequately represent those 12 victims is just  
17 for a moment talk about what is unique about each one.  
18 Because each one, although they all fell under this case,  
19 they all were sexually assaulted because of Mr. Demink's  
20 actions, they are unique.

21 And, for example, Minor Victim Number 1 is the oldest  
22 victim, he's 15 years old. What makes him unique in  
23 relation to the others is not just his age. He was asked  
24 to engage in the most widespread egregious of sexual  
25 assaults, if one could rank those things.

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1 He was asked to participate in every capacity, in  
2 every imaginable definition of the term of elicit sexual  
3 conduct.

4 When is was all said and done, his mother was  
5 arrested.

6 This boy had to move across the country and I  
7 literally mean from one coast to the next and live with  
8 someone with whom he had a troubled relationship, his  
9 guardian now.

10 And so for his part Minor Victim Number 1 had his  
11 life obviously shook up in a unique way. His mother,  
12 Rebecca Nail, has been sentenced to 30 years in prison in  
13 federal prison.

14 THE COURT: I read her letter.

15 MR. MULCAHY: Thank you, Your Honor.

16 And the next victim in this case, Victims Number 2  
17 and 3 are brother and sister out of Idaho.

18 Your Honor probably remembers Victim Number 2, this  
19 brave five year old little boy.

20 THE COURT: The one who went to the grandmother in  
21 Idaho?

22 MR. MULCAHY: I'll note Minor Victims 2 and 3 are  
23 the youngest of all of Mr. Demink's victims.

24 This boy's bravery led to the final person, perhaps  
25 ironically, to put a stop to Mr. Demink. His disclosure

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1 led to this investigation and led to Mr. Demink's arrest.

2 And but for that boy's bravery, he'd still be -- Mr.  
3 Demink would still be sexually assaulting children by  
4 using and manipulating their mothers to this day.

5 He and his sister, as I indicated, they're the  
6 youngest victims. But I would note something important  
7 about Minor Victim Number 2. He's five years old, but he  
8 understands even at five that he was sexually assaulted.

9 The reason he told his grandmother what he told his  
10 grandmother is because his grandmother asked did you have  
11 good time with your mother and he said no. And he  
12 explained why.

13 So even at this young age, he understands that he's a  
14 victim of sexual assault and he will be forever.

15 Your Honor, as relates to Minor Victims 4 and 5, I  
16 know Your Honor has received a letter, in my opinion  
17 perhaps the most gut-wrenching letters from grandparents,  
18 that talk about the small community that they live in.

19 They talk about how these children had to change  
20 schools, the schools that their parents had gone to.  
21 And --

22 THE COURT: I don't want to name names. Is this  
23 the letter dated July 20, 2011?

24 MR. MULCAHY: If I could have just one moment,  
25 Your Honor? Yes, Your Honor. That is. That is the

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1 letter.

2 It is perhaps the lengthiest letter. It speaks of a  
3 number of different things. I won't repeat them here.

4 But what stands out to me is this -- these children.  
5 The ripple affect of their abuse, their assaults had on  
6 this entire family.

7 And I suggest that although it's only articulated  
8 perhaps in that letter, every one of these victims and  
9 their families can tell a similar story of the ripple  
10 affects of Mr. Demink's actions and how they crushed and  
11 devastated that family.

12 For her part in this, unfortunately omitted from my  
13 sentencing memorandum, I indicated that Candice Miller,  
14 the mother of Minor Victims 4 and, 5 plead guilty to an  
15 indictment where she faces 15 to 30 years in prison for  
16 severity of child pornography counts.

17 She also is facing charges in the State of Florida,  
18 life charges that carry life sentences. I'm to assume if  
19 she plead guilty on the one, her chances of avoiding that  
20 significant sentence in the State of Florida are not good.

21 Your Honor, the Minor Victims 4 and 5, the one thing  
22 perhaps not completely unique to them, one thing is clear  
23 when we talk about Mr. Demink, we talk about what he's  
24 done, it is, obviously for its own self gratification. It  
25 obviously is a completely selfish act.

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1 But just to underscore that, these two children were  
2 often woken up after they'd gone to bed at night, they  
3 were kept home from school all so they could produce the  
4 images that Mr. Demink so desperately wanted.

5 So while these might be the smallest of troubles or  
6 inconveniences that these children have to face, it  
7 underscores the fact that Mr. Demink was so insistent, so  
8 demanding of their mother, that nothing mattered.

9 He said you'd keep those kids home from school if  
10 they were sick. I'm telling you they are sick. They're  
11 sick because of the way you raise them and I can fix them.

12 So it didn't matter the time of day, the particular  
13 circumstances, it was what Mr. Demink wanted whenever he  
14 wanted.

15 Your Honor, that brings us to Minor Victims 6 and 7.  
16 This time, with the Court's permission, I would like to  
17 ask their guardian to come forward, make an impact  
18 statement to the Court.

19 THE COURT: Do you wish to do this by question and  
20 answer or simply read a statement?

21 MR. MULCAHY: I believe she prefers to read a  
22 statement, Your Honor.

23 THE COURT: Could we have your name, please?

24 MS. HUGHES: Yes. My name is Trinity Hughes.  
25 Forgive me.



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1 I am the aunt and now legal guardian of -- do I have  
2 permission to use their names? My niece, Janelle, and my  
3 nephew Brandon, two sweet children who fell victims to  
4 Steven Demink at the hands of their own mother, my sister,  
5 Autumn.

6 Mr. Demink, you are like a pebble tossed into a pond.  
7 The affects of your self-serving, deceitful and immoral  
8 actions will ripple through the lives of not only my  
9 sister and her children, but the lives of their children  
10 as well.

11 My sister who is somehow a person I can barely  
12 recognize from her actions under your direction, as well  
13 as her self-preserving behavior she's displayed in the  
14 past ten months has already missed her son losing four  
15 baby teeth, last year's Halloween costume, Christmas,  
16 Easter, his 12th birthday.

17 Her daughter won four consecutive track races her  
18 first school year, her first ever. She had her 16th  
19 birthday. And she entered high school in two weeks. All  
20 of these small things are meant to be happy memories are  
21 tainted by you. The kids will always wonder would it be  
22 different if Mom was here.

23 My parents will not speak to or even mention my  
24 sister, their other daughter. The holidays last year were  
25 very difficult for every one. I know they will never be

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1 the same again for any of us.

2       There will be awards, accomplishments, proms,  
3 graduation, first loves, marriages, her grandchildren that  
4 Jen and Brandon will not be able to share with their  
5 mother because she will most likely still be incarcerated  
6 well into their late 20's or early 30's.

7       When I think of all the times I share good and bad  
8 with my parents. I'm 32. I can't pretend that I can even  
9 imagine what hell has been going through their heads since  
10 the day you crept into their lives.

11       I try to, but when I think of what must have been  
12 pure horror, confusion and fear they felt in their own  
13 home that day makes me sick.

14       How are they ever supposed to really feel safe again?  
15 How are they ever to completely trust someone again; to  
16 completely love without hesitation again. They were just  
17 children.

18       Children are supposed to feel safe at home, save with  
19 their mother and enjoy the gifts of innocent naivete that  
20 we're all given for at least 18 brief years. You stole  
21 all of that from them.

22       I personally endured three years of almost daily  
23 abuse by the hands of a family friend. The damage done in  
24 those 1095 days is nothing compared to what one day of  
25 abuse by one of my parents would have done to me.

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1 I cannot fathom what you or those seven women were  
2 thinking. Ten months ago without notice I had to put my  
3 own life on hold to put their lives back together. And  
4 I've been working diligently on that every day since.

5 I've not had the opportunity to have children of my  
6 own. I have been focusing on my career and higher  
7 education goals. Last fall in the State of Indiana,  
8 Department of Child Services placed my niece and nephew  
9 with me.

10 I was forced to withdraw from school at I.U. You see  
11 I'm no longer their aunt, I'm now their mother, father,  
12 tutor, therapist and everyone in between.

13 I'm just now finishing my bachelor's degree in a  
14 field that I never intended to major, at a school that I  
15 never intended to have as my alma mater, and at the time I  
16 already planned to be working towards my master's degree;  
17 all because of you, a man that I don't even know.

18 I had plans for my life. I had been building my life  
19 the way that I wanted it and you stole that from me, too.

20 No amount of apology or retribution will ever give  
21 back what you have taken from my the children, my sister,  
22 mother, brother, father, all of my extended family,  
23 Janelle and Brandon's father's family and their future  
24 children who will not know grandma, only Aunt Trin.

25 So many lives will forever be altered and memories

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1 tainted by your selfish acts.

2 How dare you. How dare you put your personal  
3 satisfaction above the well being of so many others, not  
4 just once but over and over and over again for what I can  
5 only assume was day after day after day.

6 Steven Demink, you are facing 15 years to life today.  
7 And although I feel strongly that no one is beyond  
8 redemption, I have to hope you receive a life sentence  
9 because that is what you have given at least seven  
10 mothers, 12 children, and indirectly a vast unknown number  
11 of other people myself included.

12 Although today is the only time you and I will ever  
13 be in the same room together, your crimes will resonate  
14 for all the years of my life. That's all.

15 THE COURT: Thank you. Could I ask you -- ma'am?

16 MS. HUGHES: I'm sorry. I'm sorry.

17 THE COURT: Have you been in contact with your  
18 sister?

19 MS. HUGHES: I have. Your Honor, I'm actually the  
20 only person outside of church and counselors that  
21 acknowledges her. I feel I have to set an example for  
22 her children. I don't want to sway their decision to  
23 forgive or not for give in anyway. They know that.  
24 They've not spoken with her since her visits were  
25 revoked in April.

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1 From the time I received them in October, she had 11  
2 one-hour supervised visits before they revoked her visits.  
3 So she hasn't -- she has a no contact order prior to that.

4 I did just get legal custody a couple weeks ago.  
5 They know if and when they choose to visit her or speak to  
6 her, I will respect that. It's totally up to them. She  
7 has a sentence or status hearing tomorrow morning,  
8 actually.

9 THE COURT: Has her case -- I believe she's in  
10 Indiana?

11 MS. HUGHES: Correct.

12 THE COURT: Has her case there been resolved yet?

13 MS. HUGHES: She has a status hearing tomorrow, I  
14 believe, to discuss the plea. If I have an opportunity  
15 to speak on behalf the children and myself, I will.

16 She's very fortunate. They're wonderful kids, huge  
17 hearts. And although they're angry and confused, their  
18 lives have been completely turned upside down, I know that  
19 they want to forgive and maybe they will.

20 Whether or not she's a part of their lives as adults  
21 again that's going to be completely up to them.

22 THE COURT: How are the kids doing?

23 MS. HUGHES: They're doing very well, Your Honor.  
24 I'm proud to say that anyone that was involved in the  
25 case from the beginning now sees them today, they're

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1 like two different children.

2 THE COURT: Are they getting some therapy?

3 MS. HUGHES: Yes, yes. Every week, as well as  
4 tutoring.

5 THE COURT: Thank you.

6 Mr. Mulcahy.

7 MR. MULCAHY: Yes, Your Honor. And I, I will try  
8 to be brief with the remainder of my remarks.

9 The, the remaining victims especially -- I know Your  
10 Honor's read the letter from the Victims 8 and 9; those  
11 are the two girls. Their father wrote a letter on their  
12 behalf.

13 THE COURT: I got that letter.

14 MR. MULCAHY: And he --

15 THE COURT: I think it was the only father I  
16 received a letter from.

17 MR. MULCAHY: That's correct, Your Honor.

18 In many cases the fathers are involved in these  
19 children's lives.

20 THE COURT: I gathered that; sort of why the  
21 mothers were on singleparentmeet.com.

22 MR. MULCAHY: Yes, Your Honor. But many don't  
23 even have visitation or interest in visitation.

24 What I'd like to say about those two couldn't do  
25 justice to their father's letter, but I would note that he

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1 focuses on a couple of things perhaps different then the  
2 others, which are his girls leave him in almost a  
3 Catch-22.

4 They don't want the door shut to go to sleep for fear  
5 for of a camera. They don't want the door open to go to  
6 sleep for fear someone will come in. Their lives have  
7 been invaded once, they don't know if it will happen  
8 again. That father's anguish is palpable in that letter.

9 One of the thing he says is sleepovers are something  
10 my girls are going to miss out on and talks about the  
11 anguish he has of trying to decide who can you trust who  
12 could you not trust. After all, it was within the care of  
13 their own mom mother that his children were victimized at  
14 Mr. Demink's behest.

15 Minor Victims 10 and 11 lead us to a different  
16 situation, Your Honor, out of Georgia. Minor Victim  
17 Number 10 was perhaps Mr. Demink's most difficult  
18 challenge.

19 That teenage girl there challenged Mr. Demink through  
20 her mother to say why is this. Why do I need to have  
21 these photographs taken of myself.

22 In fact, after the first round of photographs she  
23 says I feel like I've been molested already, which Mr.  
24 Demink takes over.

25 He brings her to the computer and says bring her,

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1 Minor Victim 10 on the computer.

2 When he does, he learns very quickly what motivates  
3 that young girl getting out of her current situation. She  
4 was not happy with the town or the residence that they  
5 lived in.

6 And Mr. Demink seized on it immediately said all you  
7 need to do are these things and I will take you away. You  
8 will come to Tampa, you will have a new life and he  
9 promises a new and better life to convince her.

10 And if that weren't bad enough, her friend just  
11 happened to be in the wrong place at the wrong time, Minor  
12 Victim Number 11.

13 THE COURT: I think I got a letter from her  
14 mother.

15 MR. MULCAHY: Yes, Your Honor. And her mother  
16 talks about the -- as I read her letter, although it's  
17 just in words, it reads as written by someone who is  
18 stunned, stunned that this could have happened.  
19 Stunned that this man could have infiltrated her life.  
20 She never heard of this man. She was the only mother  
21 who wasn't involved here.

22 What makes Minor Victim 11 perhaps, perhaps the most  
23 sympathetic is when she says -- excuse me, when Minor  
24 Victim 10 Charity Holloway says we cannot involve Minor  
25 Victim 11, she's been sexually assaulted before, Mr.



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1 Demink's seizes on that. He seizes upon that and he grips  
2 a hold of it very tightly and he says all the more reason  
3 she needs to be part of this. I can fix her.

4 It was some more threats and more convincing. There  
5 goes Minor Victim 11 sexually assaulted for a second time  
6 in her life.

7 So it's not something where after-the-fact Mr. Demink  
8 who couldn't possibly have known she was a prior victim.  
9 He knew it and he used it.

10 The last -- I would note this did not make it in my  
11 sentencing memorandum. Charity Holloway faces both state  
12 and federal charges. Those are recent. I don't believe  
13 they've been resolved.

14 That brings us to Minor Victim Number 12. I indicated  
15 number 11 might be the most sympathetic.

16 THE COURT: Is this the young man who's autistic?

17 MR. MULCAHEY: Yes, Your Honor. I think he rivals  
18 in sympathy, perhaps surpasses.

19 Victim Number 12. Here's a boy who by the age of 12  
20 cannot talk, cannot use the bathroom, he wears diapers  
21 and, in fact, completely and wholly dependent on his  
22 mother.

23 Again, another situation where Mr. Demink knows it,  
24 learns it and uses it to sexually exploit that boy.

25 He says he will never ever experience a woman's

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1 touch. It is your job to make this happen.

2 He trades and pounces on her desire and I'm sure her  
3 anxiety to be a good mother to a boy with special needs,  
4 seizes on it and exploits it, uses it and for his own  
5 sexual gratification.

6 THE COURT: Apparently, he's now living with the  
7 grandparents?

8 MR. MULCAHY: Yes, Your Honor.

9 THE COURT: I think I received a letter from the  
10 grandfather.

11 MR. MULCAHY: Yes, Your Honor, there was a letter  
12 submitted by the grandfather.

13 And I -- I will say on that letter there was some  
14 frustration to say the least that the grandparents' lives  
15 have been turned upside down.

16 Ms. Hughes is a remarkable human being for what she's  
17 been able to do, how she put her life aside and put her  
18 life on hold for those children.

19 But these other parents and grandparents, excuse me,  
20 grandparents and aunts, uncles, other guardians oftentimes  
21 have been less than excited, very frustrated, very angry  
22 that they've had to put their lives on hold.

23 This boy, Minor Victim 12's grandparents are 69 and  
24 70 years of age. They've earned their retirement, they've  
25 raised their children. Now they are thrust back into

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1 raising a boy and not just anybody, but actually two boys,  
2 but a boy with special needs. Their frustration's  
3 palpable.

4 In their letter I note another point about more  
5 things about Minor Victim 12. He is -- he and his brother  
6 now live with their grandparents.

7 You see, their father died two or three years ago.  
8 We know this because Deborah Fisher, their mother, told  
9 Mr. Demink that in a chat, in fact, in the very first chat  
10 they ever met.

11 So when Mr. Demink not only seizes on the fact that  
12 this boy's autistic and severely autistic, severely  
13 limited, he seizes on the fact they don't have a Dad, not  
14 don't have a Dad that's not interested, maybe a Dad got  
15 problems with Mom, they have a father whose deceased.

16 Now look at these two children being raised by their  
17 grandparents. In the span of three years, their father  
18 has died, their mother is going to jail and has no  
19 contact.

20 To state that their lives have basically exploded in  
21 front of the home would be an understatement. He knew  
22 every detail of it and didn't care.

23 What that means -- and the last thing Minor Victim  
24 Number 12, he depended on his mother for everything.

25 And 69 and 70 aren't what they used to be. 69 and

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1 70 -- they still have many years ahead of them, but  
2 there's a pretty good chance that this boy, Minor Victim  
3 12, as he gets into his 20's and 30's, he's going have to  
4 go to a home.

5 Those grandparents aren't going outlive him, he's  
6 going to a home. He wouldn't have gone to a home if it  
7 wasn't for him. The mother would take care of him since  
8 the day he was born.

9 I had one more notion --

10 THE COURT: Has Deborah Fisher been convicted and  
11 sentenced?

12 MR. MULCAHY: Her trial is in October. She's not  
13 been convicted.

14 THE COURT: How much time is she facing?

15 MR. MULCAHY: I don't have those. I'm sorry,  
16 Judge. I'm not sure. I know she's only -- she's only  
17 charged in the state, she's not charged in both  
18 jurisdictions.

19 You know, I had a note about what all of them share  
20 in common, but Ms. Hughes said it better then I did or  
21 that I could when it comes to what these parents have  
22 missed out on.

23 And these mother are not victims by any stretch, but  
24 they certainly were manipulated by this man. They  
25 certainly made their choices, but their choices came --

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1 were presented to them by him.

2 And so what these mothers will miss out on Ms. Hughes  
3 said it best, all of the birthdays and track meets,  
4 everything that comes with it. But there's something else  
5 here, too.

6 Every one of these children -- what's common among  
7 all of them is they're going to have to have  
8 conversations. He has forced them to have conversations  
9 that nobody should have.

10 When he goes to college, he's got a roommate.  
11 Where's your Mom. Is your Mom coming up? When the boys  
12 and girls grow up and they decide they found someone they  
13 may want to date or marry, the conversation of where's  
14 your mother?

15 When they have children, those children don't get to  
16 have grandma, it's because of him. They have that  
17 commonality all of them.

18 They're going to have to have hard conversations,  
19 embarrassing, humiliating conversations with the rest of  
20 their lives to anybody they care about.

21 The second thing -- I told you I'd only talk about  
22 three things, I'll be much shorter. The second is just a  
23 response to Mr. Demink's pleas for a lesser sentence than  
24 life.

25 As for his own criminal history, that's true he has

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1 no criminal convictions. He's spent nine years collecting  
2 child pornography. This Court has seen a lot of child  
3 pornography cases.

4 To watch and look for child pornography, it would  
5 take a reasonable person -- it would hit them right in the  
6 gut, it does every time, no matter how many times you see  
7 them.

8 This man collected it for the better part of a  
9 decade. Every night when he put his head on the pillow,  
10 every morning when he woke up from it, he knew he was  
11 committing a crime. To say that he has no criminal  
12 history is unimpressive.

13 And I'd also note that that nine year span that comes  
14 from his admissions, comes from the admissions of a man  
15 who, by Dr. Miller's report, has a hard time or refuses to  
16 talk about his sexual interest in children.

17 I suggest that a man with his history of manipulation  
18 and a man who won't talk about the very reason he's here,  
19 can't be trusted to limit it to nine years.

20 THE COURT: Let me ask you to address this  
21 question.

22 How should the Court evaluate and come into a  
23 sentence Mr. Demink's possible potential for  
24 rehabilitation as against the other sentencing factors?

25 MR. MULCAHY: I do not think it helps him to get a

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1 sentence less than life for this reason.

2 He has told Dr. Miller -- Dr. Miller's report, excuse  
3 me, reads that Mr. Demink, besides being immature and self  
4 indulgent, has had a resistance to or a flat out refusal  
5 to address the sexual interest in children. He clearly  
6 has.

7 How can he rehabilitate himself if he can't be honest  
8 with himself about his desires to watching and having  
9 sexual assaults performed on children?

10 My suggestion is he's not a great candidate with  
11 rehabilitation because the reason is he won't even admit  
12 his own sexual interest in children, despite the decade of  
13 collecting child pornography and horrific crimes we're  
14 talking about here today.

15 I'd also note something else which should give this  
16 Court pause. Even if he were more open and honest, Dr.  
17 Miller's report on page 17 says and I quote:

18 Mr. Demink's highly unusual and unique  
19 methods and the results achieved simply do  
20 not fit readily within existing sex offender  
21 classifications.

22 I could not agree more. He is a man. Unique in fact  
23 outside this, outside this courtroom is a history of this  
24 very room and some of the pillars and other things that  
25 are in here.

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1           This room has seen 115 years of folks coming in and  
2 out. I suggest to the Court it's never seen someone like  
3 Mr. Demink, the ability that he had to manipulate people  
4 and get what he wants. So I don't think he's a good a  
5 candidate for rehabilitation.

6           Which actually leads me to another issue that I think  
7 he has offered for something which is that he never  
8 himself laid a hand on a child.

9           Our response to that is, first, he directed like a  
10 movie director, the chapter put some extras in there  
11 exactly what he wanted to happen. The sex acts he wanted,  
12 the lighting he chose, the positions of those children.

13           And as I said earlier when he wanted it to happen.  
14 Even had the wherewithal or the gall to comment on their  
15 failure to smile during these sexual assaults. Next time  
16 smile, both of you.

17           So that he didn't lay a finger on these children, he  
18 was the puppet master. Those mothers were his puppets.  
19 It's a distinction without a difference.

20           And I also suggest that makes him more dangerous. If  
21 The Internet provides the kind of access to children that  
22 Mr. Demink used today, what's he going do when he's out of  
23 custody?

24           What kind of technological advances will he be able  
25 to exploit to get after kids then. I can't think of them.



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1 I'd also note that for the victims in this case, the  
2 fact that Mr. Demink did not lay a hand on those children  
3 would give them no solace.

4 It's probably worse for them, for these victims,  
5 because when they could tell a friend, a colleague, that  
6 they could tell a potential spouse, hey, I was sexually  
7 assaulted by a pedophile, by a predator.

8 But they have to have a conversation that said I was  
9 sexually assaulted by my mother because of a predator;  
10 that's a way horrible conversation.

11 The last thing I'll say in response to some of the  
12 issues that are set forth or some of the reasons set forth  
13 for a lesser sentence by Mr. Demink or all those letters.

14 They're a lot of letters, they're a lot of people who  
15 support Mr. Demink. My quarrel is not with them, it's not  
16 with his family and it's not with his friends.

17 What I suggest -- I mean with all due respect to  
18 them, they seem all universally like good people. But Mr.  
19 Demink was able to manipulate other people, other mothers,  
20 excuse me, other human beings, to violate the most sacred  
21 bond that nature has ever made between a mother and a  
22 child. That bond -- there's nothing stronger.

23 He convinced without ever meeting them face to face,  
24 to break it. He manipulated them to destroy it. And if  
25 he could do that to them, all he'd have to do to

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1 manipulate his friends and family is to convince them he's  
2 not a monster. That's easy. I would say that's been  
3 feeding his manipulation skills.

4 I don't doubt they all believe the letters they  
5 wrote, but they're writing a letter about a different guy,  
6 not writing about this guy. It's a different guy. They  
7 don't know him.

8 The fact that Mr. Demink says he has some remorse and  
9 feelings. A lot of letters talk about this. I believe he  
10 has remorse for his victims. He had opportunities to save  
11 kids.

12 He had opportunities when the agents came knocking at  
13 his door. They didn't knock on his door and say we think  
14 you might have child porn, so he might say I better not  
15 confess to the worst conduct. They showed him chat logs.

16 Here's a mother in Idaho. She says you ordered her  
17 to sexually assault her kids. We believe it because we  
18 have this chat log. He admitted to that one. He admitted  
19 to two more.

20 But when bugged by the agents practically where they  
21 said tell us about any more, because they knew, they knew  
22 there were kids out there to be saved. He didn't come  
23 clean.

24 Real remorse doesn't come on a piece of paper. Real  
25 remorse comes with action, action that could save some

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1 kids. Taking the people who were sexually assaulted out  
2 of their homes; we didn't get his help.

3 I would also note for his lack of remorse, they're  
4 other identities Mr. Demink has had. I talked very  
5 briefly about this in our sentencing memorandum, other  
6 identities.

7 What we've had is the principal identity that he  
8 used, but there's others. We know of others and he knows  
9 what we know about others.

10 The last thing I want to say, judge -- this is my  
11 final part, I promise. I just want to wrap up by saying  
12 we ask for a life sentence in this case, but we don't do  
13 it lightly. We don't ask for a life sentence, we are  
14 parroting to you what the guidelines call for.

15 The guidelines do call for life; they do for reasons  
16 separate and apart for why child pornography guideline  
17 sentences get criticized.

18 They're so high in this case because of the number of  
19 victims, the number of assaults, the ages of the victims  
20 and the production -- the fact there was images produced  
21 as opposed to merely traded.

22 We, ask for life and we think the guidelines are  
23 right on this because no other term of years makes any  
24 sense.

25 If Your Honor gave five years in jail to Mr. Demink

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1 for every child that was sexually assaulted because of his  
2 selfish conduct, that's 60 years. Five years would be  
3 insulting to them, in the government's opinion.

4 If Your Honor gave him the minimum mandatory, which  
5 is 15 years for each child, it's 180 years. It's life.

6 The reason the guidelines call for life is because  
7 against this conduct, this unique conduct, the guidelines  
8 call for life because life is the sentence here. We ask  
9 for it. We don't do it lightly and we ask for it.

10 Thank you.

11 THE COURT: Thank you.

12 Mr. Dinan, I don't know if you wish to present  
13 anything else to the Court before I hear from Mr. Demink?

14 MR. DINAN: I have nothing else for the Court,  
15 judge, but my client would like to say something to the  
16 Court. May we approach?

17 THE COURT: Please.

18 THE DEFENDANT: Your Honor, I just want to say to  
19 the victims and their families that I am sorry from the  
20 bottom of my heart. And I did not think of what  
21 consequences that my actions were going to produce.

22 And I've had ten months to think about what I've done  
23 and the consequences that have happened. And I hope they  
24 can find it in their heart one day to forgive me for what  
25 I have done.

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1 I need help and I want help. I will take any  
2 training, therapy, programs, any kind of education that  
3 the government is willing to let me have. And I'm going  
4 to every day for the rest of my life try to atone and  
5 rectify what I've done.

6 I would also like to thank my family and friends for  
7 being here today and basically showing me support that I  
8 don't really deserve.

9 And I do want to apologize to them, also, for what I  
10 put them through. Thank you.

11 THE COURT: You said that you weren't thinking of  
12 the impact on these children. What were you thinking  
13 of?

14 THE DEFENDANT: I really don't know, Your Honor.

15 THE COURT: Its --

16 THE DEFENDANT: I was selfish. I wasn't -- I  
17 wasn't thinking of anyone but myself.

18 THE COURT: As I read through the documents,  
19 transcripts, the letters, it seems to me like this  
20 became an obsession for you.

21 Over time, you seemed to have become obsessed by the  
22 use of The Internet and the manipulation of other people  
23 that you were able to achieve through The Internet.

24 Did you feel like you were so compulsively,  
25 compulsively compelled to do this that you could just not

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1 stop?

2 THE DEFENDANT: I wouldn't say I was compelled,  
3 but I think I was using it to mask my own heart and  
4 basically living a vicarious life that was amassing  
5 deeper, deeper issues.

6 THE COURT: Well, we all have sort of Walter Minny  
7 dreams we'd like to live out. But this went far, far  
8 beyond that.

9 This appeared to me, after reading everything that  
10 was presented to me by both your attorney, the letter from  
11 your family and friends and the government, that this was  
12 a became a very deep-seeded obsession.

13 I ask these questions because I think we're all  
14 struggling to find an answer here on a number of different  
15 levels.

16 One level is what could possibly have possessed you  
17 to do something like this over such a long prolonged  
18 period of time, on one level.

19 And a second level is the level that Mr. Mulcahy  
20 addressed, the level that Dr. Miller attempted to address  
21 as well. What possibility is there that if I don't give  
22 you a life sentence, you'll be able to rehabilitate  
23 yourself and not fall prey to the same kind of  
24 obsessive/compulsive behavior that brings you here today?

25 They're two sets of questions that, as I sort of

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1 struggle through his case, I think I need to try to  
2 answer. I don't know if you can answer them. I don't  
3 know if you've even thought about that.

4 THE DEFENDANT: I think about it every day, Your  
5 Honor.

6 THE COURT: So the first question is what do you  
7 think possessed you to do this in the first place?

8 THE DEFENDANT: I think that I didn't like myself  
9 so much that it basically took away all empathy I could  
10 feel. Why that particular path came about, I don't  
11 know; I'm struggling with that. But I just think I had  
12 issues that were inside me that I didn't face and they  
13 basically came out in a bad way.

14 I think, like I said, I just didn't bother to see the  
15 affect of what I was doing, but I do see it now and it's  
16 something I'll live with for the rest of my life and never  
17 forget. I also know it's never going to happen again.

18 THE COURT: The government argues to me as you've  
19 heard you're not a likely candidate for rehabilitation.  
20 What can you tell me about that?

21 THE DEFENDANT: I don't agree with that opinion.

22 THE COURT: The government tells me that one of  
23 the indicia of why you're not a candidate for  
24 rehabilitation is that you, today, even to this day,  
25 are not able to discuss your obsession with young

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1 children and child pornography. That doesn't -- I do  
2 think the government's correct about that. If it's  
3 true, it doesn't bode well for rehabilitation.

4 The first step in rehabilitation for any sort of  
5 psychological impairment is to step away from denial and  
6 to confront it.

7 MR. DINAN: Your Honor, the only thing I'd want to  
8 add is in Dr. Miller's report in the footnote --

9 THE COURT: I saw that.

10 MR. DINAN: -- it's, it's a matter of shame,  
11 judge, as it is a matter of difficulty talking about  
12 it.

13 THE COURT: Mr. Dinan, that's Dr. Miller. I want  
14 to hear from your client.

15 MR. DINAN: I understand, judge.

16 THE COURT: You know, lawyers and doctors say a  
17 lot of things after.

18 MR. DINAN: I'm sorry, Your Honor.

19 THE COURT: I've had a lot more time on the bench  
20 then I'd even like to recognize. I have to say that  
21 they're some cases in which lawyers and doctors can  
22 only have so much influence on a judge.

23 MR. DINAN: I understand, judge. Thank you.

24 THE COURT: Mr. Demink, my question is that if you  
25 really are not able to confront the root and core of



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1 your illness, what prospect is there for  
2 rehabilitation?

3 THE DEFENDANT: I think we have made a lot of  
4 steps towards that. I think if we had more time to  
5 speak, that report probably would have been a little  
6 more in depth.

7 I think I have come to a lot of conclusions and  
8 opened up to a lot of what my problems were. And it's  
9 nothing that I -- it's just the progression that it took.  
10 We had four, five hours, we've talked about a lot of,  
11 things.

12 And at this point, I don't want to hold back  
13 anything. I'm not holding back anything and further talks  
14 will show that.

15 THE COURT: My hunch is that your -- it's more  
16 than a hunch.

17 I think it's after having had many of these cases  
18 over the years, my educated estimation is that your  
19 obsession with child, child pornography has gone on for a  
20 long time, long before it manifested itself in the conduct  
21 which now brings you here. And I'm concerned that you're  
22 not and have not been able to address that or to face it.

23 The only therapy that could possibly be effective on  
24 a long term basis is the kind of therapy in which a person  
25 fully and completely faces the full extent of their

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1 problems. Otherwise, it's just treating -- therapy's just  
2 treating the symptoms. So I'm concerned about your  
3 prospects for rehabilitation, I really am.

4 Sentencing is a process. It's a -- it's a difficult,  
5 challenging process of trying -- the Court trying to weigh  
6 all of the different considerations.

7 Because I think every judge is -- I know that I am  
8 humanly aware of the implication of a sentence,  
9 particularly a lengthy sentence and especially a life  
10 sentence, not just for the person who's being sentenced,  
11 the defendant in front of the court, but for the  
12 defendant's families.

13 I get -- this is something you folks probably don't  
14 see, but I get dozens and dozens of letters not only from  
15 the defendants that I've sentenced, but from their family  
16 members.

17 And you would have to be a pretty cold-hearted human  
18 being not to recognize the devastation that a lengthy  
19 sentence brings to the family of the defendant who's been  
20 sentenced.

21 But in a case like this, that devastation probably  
22 pails in comparison to the devastation that has been  
23 reeked upon the victims and their families.

24 So as I try to weigh out the conflicting elements of  
25 a sentence here, the question of whether the defendant may

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1 realistically be rehabilitated is an important one.

2 I have to say I appreciate Dr. Miller's report, I  
3 found it helpful on a lot of different levels, but I  
4 didn't find it very helpful on this issue of  
5 rehabilitation.

6 If you wish to address any of those issues, Mr.  
7 Demink, I want to give you a full opportunity to do it.

8 THE DEFENDANT: Your Honor, I, I know you've heard  
9 a lot today that paints me in a light that makes it  
10 difficult for you to basically render your verdict,  
11 (sic) but from the bottom of my heart I know -- and  
12 this sounds slightly to almost say this.

13 I did not mean to hurt people. I know I did and I  
14 know I have issues I need to address, but I am not  
15 unsalvageable. I'm not someone that you can throw away  
16 and not ever hear from again.

17 Despite all that's happened, I think I still have  
18 value, I still think I can be a productive member of  
19 society without the Court worrying about me reoffending.

20 I know you've seen a lot of things that point you in  
21 the other direction, but I just know how I live my life.  
22 I'll get to the why things happen eventually, I know that.  
23 But I also I know that I lived my life not trying to hurt  
24 people.

25 I know that the prosecution has said -- has painted

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1 that. But I do feel, I do feel sickened by what's going  
2 to happen to the victims, what's going to happen with the  
3 rest of their lives. I know I had a big part of that.

4 But I also know, given a chance, that will never  
5 happen again. I know it from the bottom of my heart. I  
6 just ask to you give my that chance.

7 THE COURT: I'd like to take just a minute to read  
8 a letter from your sister, okay?

9 (After a short delay,

10 the proceedings continued)

11 THE COURT: As I said to Mr. Demink, sentencing is  
12 the hardest thing any judge does. But even having said  
13 that, some sentences are more difficult then others and  
14 this is one of those sentences.

15 Because it calls into question some pretty basic  
16 things; such as how well do we really ever know someone,  
17 what are the balancing and competing factors in a person's  
18 life when there is much that is good to recommend  
19 somebody, but that that person has done indescribably  
20 abhorrent, despicable and incredibly damaging acts that  
21 have had a devastating affect upon other people.

22 As I said, there's some cases in which lawyers and  
23 doctors just really can only help a court so much.

24 And at this point I want to pause and say that I  
25 think that both counsel for the government and for Mr.

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1 Demink, have done an outstanding job in representing, in  
2 Mr. Dinan's case, his client and in Mr. Mulcahy's case,  
3 the victims.

4 The sentencing memorandums were truly outstanding. I  
5 read every word of both memorandum and every letter that  
6 was presented to me.

7 But, unfortunately, this is one of those cases that  
8 the lawyers can only help so much; and in some ways, their  
9 excellent advocacy has not made my job easier but, rather,  
10 more difficult as I try to balance all of the competing  
11 factors that I have to balance in coming to a just and  
12 appropriate sentence under the law.

13 There are so many tragedies that have spawned out  
14 from Mr. Demink's virtually daily sessions on his computer  
15 that it's hard to, it's hard to calculate the butcher's  
16 toll.

17 Whether we start with the victims, the children. And  
18 I accept every word in the letters without absolving the  
19 mothers who obviously have their own demons they'll have  
20 to contend with, to the letters I've received from Mr.  
21 Demink's parents. I don't know if they're in the  
22 courtroom.

23 MR. DINAN: They are.

24 THE COURT: I appreciated the letters that helped  
25 me understand Mr. Demink, the letter from his sister

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1 that I've just read now, from his friends.

2 I've been reading these letters as I said for a very  
3 long time from defendants and I think I can tell letters  
4 that are the product of an orchestrated campaign by the  
5 lawyer and the letters that are truly heart felt. And I  
6 think the letters that I received from Mr. Demink's family  
7 and friends are truly heart felt.

8 As I read them, I just kept thinking how well do we  
9 ever really know someone. I can only imagine if one of my  
10 siblings or a family member or a friend close friend were  
11 charged with and sitting now where Mr. Demink is sitting,  
12 what my reaction would be based upon the relationship that  
13 I've had with them.

14 I would probably begun to question how well I really  
15 -- how well I really did know that person. So that's a  
16 question that's almost insoluble here.

17 Another tragedy is Mr. Demink himself. I realize  
18 that he is the perpetrator here and I don't diminish in  
19 the least the heinousness of his crimes and the impact on  
20 the victims. But his conduct is, obviously, the product  
21 of a sick mind that simply controlled him to an extent  
22 that he could not function rationally.

23 The nature and the tenure of his communications with  
24 these mothers was not simply communication that was  
25 suggesting or requesting.

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1           There was a very, very, very clear obsessive quality  
2 to it that drove him to be so insistent and persistent and  
3 to manipulate the very vulnerabilities of these women to  
4 commit these hideous acts that they committed on their  
5 children. And I think probably even manipulated the  
6 children themselves in a certain way in those instances in  
7 which he was in direct contact with them.

8           The hardest question to answer is what are the  
9 prospects for rehabilitation for Mr. Demink. As I said, I  
10 didn't -- I found, I found Dr. Miller's report to be  
11 helpful on some levels, but ultimately elusive on the most  
12 critical question for me, which is the prospects for and  
13 potential for Mr. Demink to truly be rehabilitated.

14           I sometimes wish in sentencing in these kinds of  
15 cases, I can do them progressively so that I would have a  
16 chance to see how a defendant was progressing with  
17 therapy.

18           But, unfortunately, sentencing has to be completely  
19 prospective by its nature and can't be, can't be done on a  
20 continuous basis.

21           The judge has to be able to make his or her best  
22 decision with the information they have at the time and  
23 hope that he or she made the best call possible.

24           When I look at this case, I think the overriding  
25 consideration has to be the focus on the children that

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1 were victims here.

2 Every one of these children were truly innocent  
3 victims, every one of them. And they were victims not  
4 only at the time that Mr. Demink was perpetrating these  
5 crimes, but the vast majority of them will no doubt be  
6 victims for the rest of their lives.

7 They've not only had their childhood stolen from  
8 them, but many of them will certainly have their adult  
9 years stolen from them in very significant ways.

10 They will, no doubt, find it difficult to form  
11 relationships, they will, no doubt have nightmares, they  
12 will be deprived of parental guidance; given some of these  
13 mothers that may not be a bad thing, but even, even these  
14 mothers clearly cared about their children.

15 They were misguided, they were sick themselves. But  
16 some of these mothers were doing what they did because  
17 they bought into Mr. Demink's manipulative urgings and  
18 believed him, believed that what they were doing was in  
19 some bizarre way good for the children. And every one of  
20 these children, every one of them will be deprived of a  
21 parenteral relationship.

22 When I look at the impact and the devastation that  
23 has been reeked through the use of The Internet by Mr.  
24 Demink, it's almost inconceivable the breadth and the  
25 length of the toll that his conduct will have.



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1 Who knows where these kids will go. Who knows how  
2 their lives will be impacted down the road.

3 Fortunately, some them are in good hands and  
4 beginning the healing process, such as the two children  
5 that our witness here spoke about. But even those kids  
6 will no doubt be impacted. Others may be just cut a drift  
7 with no mother provide for them, maybe no grandparents, no  
8 siblings of the mother. Some of these children may end up  
9 as wards of the State.

10 And I think I would be remiss if I didn't, in  
11 fashioning a sentence, keep a great deal of focus upon the  
12 children.

13 That doesn't mean I've lost focus on you, Mr. Demink.  
14 I've spent a lot of time thinking about you and reading  
15 the letters from your friends and your family.

16 And as Mr. Dinan said, it's almost as if they're two  
17 people there; the person who always stood up for the  
18 underdog, the person who's kind and gentle, tried to help  
19 his friends and neighbors and his family, the person who  
20 is always there to help homeless families and neighbors,  
21 elderly neighbors.

22 And maybe on some level you were trying to compensate  
23 for the other person that you may be even at some level  
24 couldn't control.

25 But when I add it all up, I'm very, very reticent to

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1 be able to find that there's much prospect for the kind of  
2 rehabilitation that would be truly effective to be able to  
3 permit Mr. Demink to return to his family and the  
4 community to live any sort of normal, productive life.

5 The prospect of a life sentence is a daunting  
6 prospect for any judge, at least it should be. It's not  
7 one that any judge faces easily.

8 But as I look at the devastation that has been reeked  
9 on so many lives, I'm afraid I have to conclude that this  
10 is a case that justifies a life sentence, as difficult as  
11 that is.

12 In the matter of the United States of America versus  
13 Stephen Demink, criminal docket 10-20676, with respect to  
14 the counts of conviction here, Counts Two, Three, Six,  
15 Seven, Ten and Eleven, after considering the sentencing  
16 guidelines and the factors contained in the sentencing  
17 statute, as well as those factors which the Court has  
18 discussed here and counsel have discussed here and Mr.  
19 Demink discussed here on the record, it is the judgment of  
20 this Court that the defendant be committed to the custody  
21 of the Bureau of Prisons for a term of 360 months on  
22 Counts Two, Six and Ten to run concurrent with each other.

23 And that with respect to Counts Three, Seven and  
24 Eleven, it's the judgment of this Court that the defendant  
25 be committed to the custody of the Bureau of Prisons to

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1 serve a life term.

2 The life term on these counts will run concurrent  
3 with each other as well as concurrent to the sentence  
4 imposed as to Counts Two, Six and Ten.

5 I'm going to recommend very strongly to the Bureau of  
6 Prisons that the defendant be committed to the Bureau of  
7 Prisons Residential Sex Offender Treatment Program at  
8 Devens and I hope that the Bureau of Prisons will follow  
9 the Court's recommendation. The Devens facility is known  
10 as one of the very best within the federal correction  
11 community in this area.

12 The law requires a special assessment of \$100 for  
13 each count of conviction. They're six counts of  
14 conviction, therefore, a special assessment of \$600 is due  
15 and payable immediately.

16 I have waived the imposition of a fine or costs of  
17 incarceration, costs of supervision, due to the  
18 defendant's lack of resources.

19 In the event that for some reason that Mr. Demink  
20 does not serve a full term of life, he will be placed on a  
21 term of supervised release for life as to all six counts  
22 and on each of these counts, the supervised release term  
23 will run concurrent.

24 Mr. Demink does not have a serious long-standing  
25 problem of substance abuse, but he did have some substance

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1 abuse issues, therefore, I have to impose the mandatory  
2 drug testing condition. Therefore, I do impose it.

3 Should he be on supervision, he will abide by all of  
4 the standard conditions of supervised release which have  
5 been adopted by this Court as well as the following  
6 additional conditions mandated by law.

7 He will comply with the requirements of the Sex  
8 Offender Registration Notification Act as directed by his  
9 probation officer, the United States Bureau of Prisons or  
10 any state offender registration agency in which he  
11 resides, works or is a student or was convicted of any  
12 other offense.

13 He will successfully complete any sex offender  
14 diagnostic evaluations, treatment or counseling programs  
15 and polygraph examinations as directed by his probation  
16 officer.

17 Reports pertaining to sex offender assessments,  
18 treatment and polygraph examinations shall all be provided  
19 to his probation officer.

20 Based upon the defendant's ability to pay, he will  
21 pay the costs of these evaluations, treatments and  
22 counseling programs and polygraph examinations in an  
23 amount to be determined by his probation officer.

24 He will not associate with minor children under the  
25 age of 18 except in the presence of a responsible adult

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1 who is aware of the nature of his background and his  
2 convictions here and who has been approved by his  
3 probation officer.

4 He will not frequent places where children congregate  
5 on a regular basis such as schools, playgrounds,  
6 children's toy stores, video arcades, places of that  
7 nature.

8 He must notify anyone that he would ultimately date  
9 or marry who has minor children -- a minor child or  
10 children under the age of 18 of his conviction and the  
11 nature of it.

12 He will not purchase, sell, view or possess images in  
13 any form of media or live venue that depict pornography,  
14 sexually explicit conduct, child erotica or child nudity.

15 He will not patronize any place where this material  
16 is available or such entertainment is available.

17 He will provide his probation officer with accurate  
18 information about all computer systems that he has,  
19 including all passwords and any Internet service providers  
20 that he has the potential and reasonable access to, and  
21 abide by all of the rules of the Probation Department's  
22 computer monitoring programs.

23 He will only access a computer that has been approved  
24 by his probation officer.

25

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1           He will consent to his probation officer conducting  
2 periodic unannounced examinations of all computer systems  
3 which may include computer monitoring software at his  
4 expense.

5           For the purpose of accounting for all computers'  
6 hardware, software and accessories, he will submit his or  
7 her person, his residence, computer, and/or his vehicle to  
8 a search conducted by his probation officer at reasonable  
9 times and places and reasonable manners.

10          He will inform any other residents that the premises  
11 and his computer may be subject to search pursuant to this  
12 condition.

13          And he will provide his probation officer with access  
14 to any requested financial information, including billing  
15 records, telephone records, cable records, Internet  
16 records, satellite records and anything of the nature in  
17 the future that we can't predict.

18          He will have employment preapproved by his probation  
19 officer. If his employment requires the regular use of a  
20 computer, he will notify his employer of the nature of his  
21 conviction and this notification must be confirmed by his  
22 probation officer.

23          He will only access The Internet through one Internet  
24 capable device. All other Internet capable devices such  
25 as cellular phones, gaming consoles shall not have the

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1 Internet connected.

2 He is prohibited from access to any online computer  
3 service at any location, including but not limited to  
4 public libraries, Internet cafes, places of employment or  
5 education without the permission of his probation officer.

6 He will not own on or possess a camera, photographic  
7 device, and/or equipment, including video recording  
8 equipment and including cell phones with photographic  
9 capability without the prior approval of his probation  
10 officer.

11 And, finally, he will not rent a P.O. box or storage  
12 unit without the prior approval of his probation officer.

13 Mr. Demink, under the terms of your plea agreement  
14 you agreed that if I were to accept your plea agreement  
15 and sentence you within the guidelines that were  
16 anticipated in the plea agreement, that you would waive or  
17 give up any right that you would have to appeal either  
18 your conviction or your sentence.

19 I've now accepted the plea agreement and have  
20 sentenced you in accordance with the plea agreement and,  
21 therefore, you do not have a right to appeal your  
22 conviction or your sentence.

23 Is there anything else from counsel --

24 MR. MULCAHY: Your Honor, excuse me. Two matters.

25

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1 THE COURT: -- concerning either the sentence I've  
2 imposed or anything else?

3 MR. MULCAHEY: Your Honor, they're two matters.  
4 First, there is the restitution issue to be paid. I do  
5 have --

6 THE COURT: I was going to ask if you wanted a  
7 separate hearing on that. You didn't present anything  
8 during your presentation.

9 MR. MULCAHY: I would like an opportunity to brief  
10 the Court on I believe a couple of outstanding issues  
11 regarding restitution. I've provided one example to  
12 the Court, but I'd like to provide another to Mr. Dinan  
13 at a later time.

14 If Your Honor would like a hearing, we could have one  
15 at a later time.

16 THE COURT: Well I think we should have a hearing  
17 on it if it's necessary.

18 My question to you is what is the realistic prospect  
19 now given the sentence?

20 MR. MULCAHY: Not great. I understand that.

21 I would like an opportunity to research that issue  
22 and whether or not under Crime Victim's Rights Act I'm  
23 advocating on their behalf correctly if I say it's  
24 uncollectible. If I think it's uncollectible, if I could  
25 have an opportunity.



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1 THE COURT: The one thing -- I would want to put  
2 all my cards on the table here. I would not be  
3 amenable to anybody other than Mr. Demink be  
4 responsible for restitution, certainly not his family.

5 MR. MULCAHY: I understand that, that wasn't my  
6 suggestion if that's what the Court thought.

7 It was more of the issue of properly presenting to  
8 the Court an order for restitution so that I adequately  
9 explain to all the victims what they're entitled to under  
10 the Crime Victim's Rights Act. If that's an order that  
11 can't happen because the defendant is unable to pay, so be  
12 it.

13 I wanted to provide that to the Court perhaps in two  
14 weeks, if that's agreeable.

15 THE COURT: Mr. Dinan?

16 MR. DINAN: Your Honor, it seems a moot point  
17 given the life term the Court set forth. But if the  
18 government insists on pursuing this issue of  
19 restitution, I would like an opportunity to respond to  
20 that.

21 THE COURT: Let's leave it that way, then. Mr.  
22 Mulcahy, you can present to the Court any material,  
23 including any briefs for restitution that you wish and  
24 Mr. Dinan will have an opportunity to respond.

25

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1 I generally don't like to enter pyric orders, so I  
2 think should all be cognizant of that.

3 MR. MULCAHY: I understand, Your Honor.

4 THE COURT: I certainly want you to address that  
5 issue.

6 MR. MULCAHY: Absolutely. I will. I will talk to  
7 Mr. Dinan beforehand before I file anything. Because  
8 that issue, what Your Honor just pointed out, may  
9 resolve any dispute we have.

10 The second procedural issue is because Your Honor's  
11 accepted the terms of the plea agreement, the government's  
12 moving to dismiss the remaining counts of the Indictment  
13 against this defendant.

14 THE COURT: Provide me with a proposed order,  
15 please.

16 MR. MULCAHY: Yes, Your Honor.

17 THE COURT: Anything else from the defense?

18 MR. DINAN: No, Your Honor.

19 THE COURT: Thank you all.

20

21 (This hearing then  
22 concluded at 2:55 p.m.)

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CERTIFICATE OF COURT REPORTER

I certify that the foregoing is a correct transcript  
from reported proceedings in the above-entitled  
matter.

s/Carol S. Sapala, FCRR, RMR                      December 21, 2011